

UNITED STATES DISTRICT COURT
IN THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BARBARA JEAN ALTEMEIER,

Plaintiff,

v.

Case No. 3:10-cv-02646-N (BK)

DALLAS COUNTY, TEXAS, et al.

Defendants.

BARBARA JEAN ALTEMEIER, *Pro Se*
13861 Yockey Street
Garden Grove, CA. 92844-2663
(714) 379-9557

J. G. SCHUETTE
JAMES CARROLL BUTT
1500 Marilla Street
7th Floor
Dallas, TX. 75201
(214) 670-3519
jason.schuette@dallascityhall.com
james.butt@dallascityhall.com
Attorneys for City of Dallas, TX, Louis
Canales and Ronald M Hubner

G. GUS MORRIS (P32960)
McGraw Morris, PC
2075 W. Big Beaver Road
Troy, MI. 48084
(248) 502-400
gmorris@mcgrawmorris.com
Attorneys for Fruitport Township
and James Schultz

TAMMY JEAN ARDOLF
Dallas Co. Criminal District Attorney-Fed.
133 N Industrial Blvd., LB 19
Dallas, TX. 75207
(214) 653-3603
tjardolf@dallascounty.org
Attorney for Dallas Co, TX, Daniel Downs
and Lupe Valdez

WINSTON L. BORUM
Borum & Hancock
2485 Burnett Plaza
801 Cherry St., Unit 14
Fort Worth, TX. 76102
(817) 336-4100
borum@borumhancock.com
Attorneys for Ronald Anderson and
Parkland Health and Hospital System Aux.

RONALD G. ACHO (P23913)
Cummings, McClorey, Davis & Acho, PLC
33900 Schoolcraft Road
Livonia, MI. 48150
(734) 261-2400
racho@cnda-law.com
Attorneys for County of Muskegon, Tony
Tague and Dale Hilson

**DEFENDANTS, COUNTY OF MUSKEGON, TONY TAGUE AND
DALE HILSON'S MOTION TO STRIKE PLAINTIFF'S FIRST SUPPLEMENTAL
OBJECTIONS TO FINDINGS, CONCLUSIONS AND RECOMMENDATION OF
MAGISTRATE JUDGE**

NOW COME Defendants, MUSKEGON COUNTY, MICHIGAN, MUSKEGON COUNTY PROSECUTOR TONY TAGUE, and MUSKEGON COUNTY SENIOR ASSISTANT PROSECUTOR DALE HILSON ("the Muskegon County Defendants") and for their Motion to Strike Plaintiff's First Supplemental Objections to Findings, Conclusions and Recommendations of Magistrate Judge, state as follows:

1. The Complaint and First Amended Complaint in this matter set forth, to the extent they are cognizable claims against the Muskegon Defendants, that allege causes of action under 42 U.S.C. §1983.

2. That all Defendants filed Motions for Summary Judgment and those issues were fully briefed by all parties and extensively by the Plaintiff.

3. That said Motions were reference to Magistrate Judge Renee Harris Toliver for consideration, review and opinions.

4. That on March 31, 2011, the Magistrate Judge issued their Findings, Conclusions and Recommendations (See Docket No. 87) in which it is recommended that the case be dismissed with prejudice as to all Defendants in that Plaintiff's claims are barred by the applicable statute of limitations.

5. That the Findings, Conclusions and Recommendations incorporate on page 9 of Docket No. 87, the specific Instructions for Service and Notice of Right to Appeal/Object.

6. That pursuant to said instructions and FRCP 72 (b)(2) a party has 14 days

to file said objections.

7. That Plaintiff timely filed objections on April 14, 2011, although the Muskegon Defendants did not receive said objections until April 19, 2011.

8. That on April 19, 2011, the Muskegon Defendants also received by ECF Plaintiff's First Supplemental Objections to Findings, Conclusions and Recommendations of Magistrate Judge (See Docket No. 90).

9. That Plaintiff's supplemental filing is beyond the applicable time period set forth by the Magistrate Judge's findings and Court Rule.

10. That even a cursory review of the Supplemental Objections reveal nothing relevant that could not have been set forth within the applicable 14 day period.

11. That said Supplemental Objections were not previously authorized by the Court and have not been the subject of any requests to extend filing deadlines.

12. That said Supplemental Objections should be stricken in that they contravene the explicit instructions of the Court and Court rules.

WHEREFORE, the Muskegon Defendants pray this Honorable strike Plaintiff's First Supplemental Objections to Findings, Conclusions and Recommendation of Magistrate Judge (Docket No. 90).

Respectfully submitted

s/Ronald G. Acho
33900 Schoolcraft
Livonia, MI. 48150
Phone: (734) 261-2400
Email: racho@cnda-law.com
P 23913

Dated: April 28, 2011

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Dallas Co. Criminal District Attorney-Fed.
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Dallas, TX. 75207
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Cummings, McClorey, Davis & Acho, PLC
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Livonia, MI. 48150
(734) 261-2400
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Tague and Dale Hilson

**DEFENDANTS, COUNTY OF MUSKEGON, TONY TAGUE AND
DALE HILSON'S BRIEF IN SUPPORT OF MOTION TO STRIKE PLAINTIFF'S FIRST
SUPPLEMENTAL OBJECTIONS TO FINDINGS, CONCLUSIONS AND
RECOMMENDATION OF MAGISTRATE JUDGE**

The Plaintiff is in pro per but must still conform to the rules of motion practice. She has filed extensive, if not necessarily pertinent objections. However, she persists in ignoring the rules which were clear and concisely set forth on page 9 of the Magistrate Judge's Findings. The Plaintiff has set forth no reason for the delay nor has she sought the Court's permission to file supplemental pleadings. As such, based on the Court's inherent authority to control and manage its case load and on FRCP 72(b)(2) and (3), the Court should strike Plaintiff's supplemental objections, Docket No. 90.

Respectfully submitted
s/Ronald G. Acho
33900 Schoolcraft
Livonia, MI. 48150
Phone: (734) 261-2400
Email: racho@cnda-law.com
P 23913

Dated: April 28, 2011

I hereby certify that on April 28, 2011, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: All Attorneys of Record

and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Barbara Jean Altemeier

s/Ronald G. Acho
33900 Schoolcraft
Livonia, MI. 48150
Phone: (734) 261-2400
Email: racho@cnda-law.com
P 23913

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